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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,341	04/21/2004	Fumiyoshi Yonezawa	Q80990	5470

23373 7590 11/03/2005

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
KIRKLAND III, FREDDIE	

ART UNIT	PAPER NUMBER
2855	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/828,341	YONEZAWA, FUMIYOSHI	
	Examiner	Art Unit	
	Freddie Kirkland III	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7 and 9-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *8* is/are allowed.

6)☒ Claim(s) *1-5,7 and 9-11* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Final Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohmura et al. U.S. Patent Application Publication 2002/0023485.

With respect to claim 9, the Kohmura et al. reference teaches an intake air flow rate measuring device "wherein the intake axis extends in a substantially horizontal direction (figure 5)."

With respect to claim 10, the reference teaches an intake air flow rate measuring device "further comprising: an inside portion (introduction unit 2) disposed inside of the intake pipe and housing an air flow rate measuring element for generating a flow signal; an outside portion (cover 6) disposed on the outside of the intake pipe housing an electronic circuit (circuit board 5) for calculating the intake flow fate; and an electrical connecting line to supply the flow signal to the electronic circuit (figure 5)."

With respect to claim 11, the reference teaches "an intake air flow rate measuring device of an internal combustion engine, comprising a measurement structure (detection unit 3) that is attached to an intake pipe (main flow pipe 10) of the internal combustion engine so as to project into an intake passage and measures the intake air flow rate of the internal combustion engine (page 1 paragraph 2), the measurement

structure comprising; an air inlet located in the intake passage on an upstream side (page 7 paragraph 128 lines 9-13, flow inlet 2a); an air outlet located in the intake passage on a downstream side (page 7 paragraph 128 lines 9-13, flow outlet 2b); a first passage extending from the air inlet to the air outlet (figure 5, 22 bypass flow path); a shunt plate extending in a direction that crosses an axis of the intake passage and having a shunt edge that is adjacent to the first passage (figure 5, partition 8); a second passage formed around the shunt plate to bypass the first passage (figure 5, second flow path 30); and an air flow rate measuring element disposed in the second passage (figure 5, detection element 7), wherein the air inlet has an inlet end positioned at the side of the passage, and the shunt edge of the shunt plate is located on an imaginary line or distant from the imaginary line to the side of the second passage (figure 5, partition 5 is located above the center line), where said imaginary line is parallel to the axis of the intake passage and passes through the inlet end of the air inlet (figure 5, the center line runs parallel to the main flow and passes through the air inlet)."

Response to Arguments

Applicants arguments filed on 10/13/2005 have been fully considered but they are not persuasive.

The applicant states "In contrast, applicant respectfully...air inlet" page 8, lines 9-11. Also the applicants states "However, the centerline...air inlet 2a" page 8, lines 13-15. Applicant fails to point out the disclosed structure encompassed by the cited limitation and how this structure patentably distinguished over Kohmura. Regarding Fig. 5 of the Kohmura reference, the reference clearly discloses "wherein the edge of the

shunt plate is located on a imaginary line or distant from the imaginary line to the side of the second passage, in which the imaginary line is parallel to the axis of the intake passage and passing through a top end of the air inlet." Kohmura clearly discloses a shunt plate that where the edge is on an imaginary line located through a top end of the inlet passage not the very top of the passage. The so called "top end of the air inlet" can be interpreted as being the end of the inlet passage that is above the centerline.

The applicant's arguments regarding the 35 USC 103 rejection are not persuasive.

The applicant states "In contrast, Applicant...port 21" page 9 lines 12-17. Nagasaka clearly discloses in figures 1b and 5a a guide section 24 that guides the bypass flow into the first passage toward the air outlet (col. 9 lines 54-67). The applicant fails to point out how this structure patentably distinguishes over Kohmura in view of Nagasaka.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

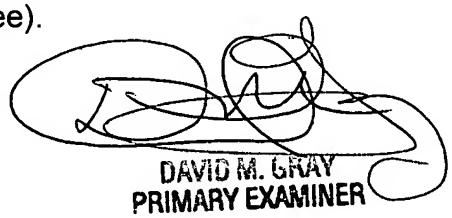
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freddie Kirkland III whose telephone number is 571-272-2232. The examiner can normally be reached on Monday through Friday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on 571-272-2119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



FKIII
10/26/2005